



General Assembly

February Session, 2000

Raised Bill No. 90

LCO No. 276

Referred to Committee on Public Health

Introduced by:
(PH)

***An Act Concerning The Confidentiality Of Probate Court
Proceedings Involving Individuals With Mental Retardation.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 17a-274 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (b) Application to the Probate Court for placement under this
4 section may be made by any interested party. The application and all
5 records of probate court proceedings held as a result of the filing of
6 such application shall be sealed and shall be made available only to the
7 respondent or the respondent's counsel or guardian, and to the
8 Commissioner of Mental Retardation or the commissioner's designee,
9 unless the Probate Court, after hearing held with notice to the
10 respondent, and to the commissioner or the commissioner's designee,
11 determines that such application and records should be disclosed for
12 cause shown. The application shall allege that the respondent is
13 mentally retarded and (1) is unable to provide for himself at least one
14 of the following: Education, habilitation, care for personal health and
15 mental health needs, meals, clothing, safe shelter or protection from
16 harm; (2) has no family or guardian to care for [him] the respondent or

17 [his] the respondent's family or guardian can no longer provide
18 adequate care for [him] the respondent; (3) is unable to obtain
19 adequate, appropriate services which would enable [him] the
20 respondent to receive care, treatment and education or habilitation
21 without placement by a court of probate; and (4) is not willing to be
22 placed under the custody and control of the Department of Mental
23 Retardation or its agents or voluntary admission has been sought by
24 the guardian or limited guardian of [such person] the respondent
25 appointed pursuant to chapter 779a or the provisions of sections 45a-
26 711 to 45a-725, inclusive, and such voluntary admission has been
27 opposed by the ward or [his] the ward's next of kin.

28 Sec. 2. Section 45a-670 of the general statutes is repealed and the
29 following is substituted in lieu thereof:

30 An application for guardianship may be filed by the court on its
31 own motion or by any adult person. The application and all records of
32 probate court proceedings held as a result of the filing of such
33 application shall be sealed and shall be made available only to the
34 respondent or the respondent's counsel or guardian, and to the
35 Commissioner of Mental Retardation or the commissioner's designee,
36 unless the Probate Court, after hearing held with notice to the
37 respondent, and to the commissioner or the commissioner's designee,
38 determines that such application and records should be disclosed for
39 cause shown. An application filed by the court on its own motion shall
40 contain a statement of the facts on which the court bases its motion,
41 and such statement of facts shall be included in any notice to the
42 respondent. Any other application filed shall allege that a respondent,
43 by reason of the severity of [his] the respondent's mental retardation is
44 unable to meet essential requirements for [his] the respondent's
45 physical health and safety and unable to make informed decisions
46 about matters relating to [his] the respondent's care. Such application
47 shall be filed in the court of probate in the district in which the
48 respondent resides or [has his domicile] is domiciled. Such application
49 shall state: (1) Whether there is, in any jurisdiction, a guardian, limited

50 guardian, or conservator for the respondent; (2) the extent of the
51 respondent's inability to meet essential requirements for [his] the
52 respondent's physical health or safety, and the extent of the
53 respondent's inability to make informed decisions about matters
54 related to [his] the respondent's care; (3) any other facts upon which
55 guardianship is sought; and (4) in the case of a limited guardianship,
56 the specific areas of protection and assistance required for the
57 respondent.

58 Sec. 3. Section 45a-692 of the general statutes is repealed and the
59 following is substituted in lieu thereof:

60 An application for a determination of a person's ability to give
61 informed consent to a sterilization procedure may be filed by the
62 person seeking sterilization, the attending physician of the person
63 seeking sterilization, by the director of the institution, or by an
64 interested party and shall state the reason for seeking such
65 determination. Such application shall be filed in the court of probate in
66 the district in which the respondent resides or [has his domicile] is
67 domiciled. The application and all records of probate court
68 proceedings held as a result of the filing of such application shall be
69 sealed and shall be made available only to the respondent or the
70 respondent's counsel or guardian, and to the Commissioner of Mental
71 Retardation or the commissioner's designee, unless the Probate Court,
72 after hearing held with notice to the respondent, and to the
73 commissioner or the commissioner's designee, determines that such
74 application and records should be disclosed for cause shown.

Statement of Purpose:

To ensure the confidentiality of records of probate court proceedings involving individuals with mental retardation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]